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March 5, 2014

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Honorable Renee Marie Bumb, U.S.D.J.
U.S. District Court for the District of New Jersey
Mitchell H. Cohen Federal Building & U.S. Courthouse
1 John F. Gerry Plaza
Camden, New Jersey 08101

Re: *AstraZeneca LP and AstraZeneca AB v. Breath Limited et al.*
Consolidated Civil Action No. 08-cv-01512 (RMB) (AMD)

Dear Judge Bumb:

We, along with our co-counsel, Rakoczy Molino Mazzochi Siwik LLP, represent Defendants Breath Limited and Watson Laboratories, Inc. (collectively, "Watson") in the above-consolidated matter. We write on behalf of Watson to respectfully request that the Court reinstate Watson's counterclaims of invalidity as to U.S. Patent No. 7,524,834 B2 ("the '834 patent").

On May 31, 2013, the Court issued an Order of Final Judgment. (ECF No. 823). In that amended Judgment, the Court held that, as relevant here, Watson does not infringe claims 1, 2, 50 and 51 of the '834 patent, the only claims AstraZeneca asserted during trial that Watson infringed. (*Id.* at 3). In that same Order of Final Judgment, the Court dismissed *without prejudice* Defendants' counterclaims of invalidity as relevant to the '834 patent. (*Id.*). As this Court is aware, on October 30, 2013, the Federal Circuit reversed this Court's non-infringement finding as to the '834 patent and remanded for further proceedings. AstraZeneca subsequently filed a motion for a preliminary injunction before this Court, which is fully briefed.

In view of the procedural nature of this case, Watson seeks to reinstate its counterclaims relevant to the '834 patent. (See ECF No. 73, Breath's Counterclaims in Civil Action No. 08-cv-1512; ECF No. 5, Breath's Counterclaims in Civil Action No. 09-cv-4115¹; ECF No. 14,

¹ The Court consolidated Civil Action No. 09-cv-4115-RMB-AMD with lead Civil Action No. 08-cv-1512 on September 25, 2009. (See ECF No. 89 in Civil Action No. 08-cv-1512).

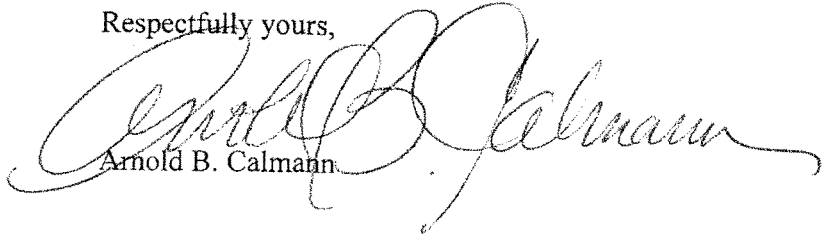
Honorable Renee Marie Bumb, U.S.D.J.
March 5, 2014
Page 2

Watson's Counterclaims in Civil Action No. 11-3626²). We respectfully submit that it is appropriate for this Court to proceed in this manner. *See, e.g., Free Motion Fitness, Inc. v. Cybex Int'l, Inc.*, 423 F.3d 1343, 1353 (Fed. Cir. 2005) (stating that parties "are free, of course, to reinstate their counterclaims upon remand").

If Watson's request herein meets with the Court's approval, we respectfully request that Your Honor execute the "So Ordered" provision below and have this letter filed with the Clerk of the Court.

We thank the Court for its consideration and continued assistance in this matter. Naturally, if the Court has any questions or would prefer to schedule a conference to discuss these matters, we would be pleased to be available at the Court's convenience.


Respectfully yours,



Arnold B. Calmann

ABC/kae
cc: Counsel of record (by Electronic Mail)

IT IS SO ORDERED this 6th day of March, 2014, that the above request for the reinstatement of Watson's counterclaims of invalidity as to the '834 patent in this matter is hereby granted; and it is further **ORDERED** that Watson's counterclaims of invalidity as to the '834 patent are hereby reinstated.



THE HONORABLE RENEE MARIE BUMB
UNITED STATES DISTRICT JUDGE

² The Court consolidated Civil Action No. 11-cv-3626-RMB-AMD with lead Civil Action No. 08-cv-1512 on October 20, 2011. (*See* ECF No. 27 in Civil Action No. 11-cv-3626).